IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8975 OF 2003

Mahadeo Savala Bhosale .. Petitioner
Vs.
Baban Anna Bhosale & Ors. .. Respondents.

Mr.Umesh Malkapure i/b Mr.R.V.More for the petitioner.
Mr.G.N.Salunke i/b Mr.P.A.Pol & H.G.Waksh for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 2ND MAY, 2005

P.C.:

. Heard Mr.Malkapure, learned counsel for the petitioner and Mr.Salunke, learned counsel for respondent no.1.

2. Rule, returnable forthwith.

3. Mr.Salunke, learned counsel waives service for respondent no.1. By consent of the parties taken up for final hearing.

4. This petition is directed against the order dated 8.4.2003 passed by the Secretary and Officer on Special Duty (Appeals) Revenue & Forest Department by

which the revision application filed by respondent no.1 has been allowed and the matter was remanded to the Superintendent of Land Record, Sangli to conduct fresh enquiry in respect of disputed entries in the revenue record. These proceedings arise out of order dated 15.2.1985 passed by the Special Enquiry Officer, Land Revenue by which name of the petitioner was deleted and name of the gram panchayat was entered in respect of the suit land bearing Sheet No.2 Chalta No.86, C.S.No.7. That order was challenged by the petitioner before the Special Superintendent of Land Record, who by his order dated 31.1.1989 directed revenue authorities to enter name of the petitioner in respect of aforesaid land. The gram panchayat did not carry the matter further. However, that order was challenged by respondent no.1 in appeal in 2001 before the Deputy Director of Land Records, Pune Region, Pune. That authority dismissed the appeal filed by respondent no.1 vide its order dated 20.2.2001. Being aggreived by that order the petitioner preferred revision application before the State Government which was partly allowed by the order dated 8.4.2003, which is impugned in the present writ petition. Mr.Malkapure, learned counsel for the petitioner at the outset submitted that the revision is not maintainable since the order dated

15.2.1985 passed by Special Enquiry Officer, Land Revenue was never challenged by respondent no.1 and, therefore, he had no locus to challenge the order in appeal filed by the petitioner. As against this Mr.Salunke, learned counsel for respondent no.1 submitted that respondent no.1 was not aware about the order dated 15.2.1985 and, therefore, he was justified in challenging the order passed in appeal in 2001, since he came to know about the said order for first time in 2001. A perusal of the order dated 31.1.1989 shows that respondent no.1 was examined by the concerned authority in those proceedings. In view thereof respondent no.1 cannot claim that he was not aware about the orders passed by the revenue authorities dated 15.2.1985 and 31.1.1989. However, keeping in view the nature of dispute and considering that the civil suit filed by respondent no.1 is now pending in appeal, I need not enter into this controversy. The ends of justice will be met if respondent no.1 is given liberty to approach the revenue authorities as and when rights of the parties stand determined in the civil proceedings already initiated by him and which is now pending in appeal or in any other suit that will be filed by the parties in respect of the said property for declaration of their rights. In the circumstances

this writ petition stands disposed of by the following order:

(a) The impugned order dated 8.4.2003 is quashed and set aside.

(b) It is open for respondent no.1 to approach revenue authorities as and when civil proceedings already initiated by him stand concluded and the rights of the parties stand determined therein or in any other such proceedings. If such application is filed by respondent no.1, on determination of the rights of the parties in the suit properties either in the said civil suit or in any other suit seeking declaration of rights in the said property, the revenue authorities may pass appropriate orders after giving an opportunity of being heard to all concerned.

. The writ petition, accordingly, stand disposed of in the aforesaid terms.

. Certified copy expedited.

(D.B.Bhosale, J.)